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### REMARKS

The final Office Action dated 12 January 2004 has been reviewed. Claims 1, 4, 14, 16 and 26 have been cancelled, claims 5, 6, 13, 15 and 19 have been amended to depend from claim 18, which has been rewritten in independent form, claims 23 and 27 have also been rewritten in independent form, claims 17 and 22 have been amended, claims 2, 3 and 25 were previously presented, and claims 7-12, 20, 21 and 24 remain as originally presented. Thus, Claims 2, 3, 5-13, 15, 17-25 and 27 are pending, and are respectfully submitted for reconsideration by the Examiner.

Applicants thank the Examiner for allowing claims 2, 3 and 25. With regard to claims 23, 24 and 27, which were indicated as containing allowable subject matter, claims 23 and 27 have been rewritten in independent form in accordance with the Examiner's helpful suggestion.

Claims 5-13, 15 and 17-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,584,278 to Satoh et al. ("Satoh"). Claim 22 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,474,048 to Yamazaki et al. ("Yamazaki"). Claim 26 stands rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being obvious over Yamazaki. And claim 21 stands rejected under 35 U.S.C. § 103(a) as being obvious over Satoh. These rejections are traversed in view of the above amendments and the following comments.

The final Office Action asserts that "the use of 'adapted to be connected' to a vapor canister or fuel tank is seen as suggested use only" and "only when the combination of the valve, canister, and fuel tank is clearly recited have the connections of the valve been given patentable weight." These assertions in the final Office Action are respectfully traversed in view of the following comments.

As stated in M.P.E.P. § 2173.05(g), there is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper. *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971). As is further stated in M.P.E.P. § 2173.05(g), "[a] functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used." For example, limitations such as "members adapted to be positioned" serve to precisely define present structural attributes of interrelated

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component parts of the claimed assembly. *In re Venezia*, 530 F.2d 956, 189 USPQ 149 (CCPA 1976).

Thus, it is respectfully submitted that, in contrast to the assertions in the final Office Action, the recitation of "adapted to be connected in fluid communication with a fuel vapor collection canister" and "adapted to be connected in fluid communication with a fuel tank" are 1) neither wrong nor render Applicants' claims improper, and 2) precisely define structural attributes that must be evaluated and considered. Moreover, as the final Office Action states with regard to the allowance of claims 2 and 3, "the positive recitation of the canister and fuel tank causes the ports in Satoh to be reversed from that recited in the claims."

Notwithstanding the aforementioned reasons for allowance, independent claims 17, 18 and 22 have also been amended to expedite prosecution of the present application.

Applicants' independent claims 17 and 22 now recite, *inter alia*, that a fuel tank isolation valve "consists essentially of" a housing, a diaphragm, and a resilient element. In contrast, Satoh shows a first housing 52 and a second housing 92, a first diaphragm 74 and a second diaphragm 104, and a first spring 86 and a second spring 106.

It is respectfully submitted that independent claims 17 and 22 are allowable for at least the aforementioned reasons, and that the rejections under 35 U.S.C. § 102(b) should be withdrawn.

Applicants' independent claim 18, which has been rewritten in independent form, recites a combination of features that include "a check valve providing unidirectional fluid communication from the first sub-chamber to the second sub-chamber." Thus, the reversed arrangement of Satoh with respect to Applicants' invention, as noted in the final Office Action, has been further emphasized.

It is respectfully submitted that independent claim 18 is allowable for at least the aforementioned reasons, and that the rejection under 35 U.S.C. § 102(b) should be withdrawn. Further, claims 5-13, 15, and 19-21 depend, directly or indirectly, from claim 18 and are therefore allowable for at least the same reasons, as well as for the additionally recited features that further distinguish over Satoh.

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### CONCLUSION

Applicant respectfully requests that the Examiner enter this Amendment under 37 C.F.R. § 1.116, thereby placing all pending claims in condition for allowance.

Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative to expedite the prosecution.

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. **This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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